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January 19, 2006

Hon. Thomas J. McAvoy  
Senior Judge, United States District Court  
Northern District of New York  
Federal Courthouse  
15 Henry St.  
Binghamton, NY 13901

Re: USA v. Falso; 05-CR-270

Dear Judge McAvoy:

Please accept this letter as a request on behalf of the defendant to submit a reply to the Government's response to our omnibus motion. A reply is necessary to respond to facts and arguments which have been raised for the first time in the Government's response.

In support of the defendant's argument to suppress the search of his home, he has argued that the search warrant was invalid, because it contained misleading statements concerning his purported subscription or membership to a child pornography website. A fair reading of the warrant would indicate that such a claim had been made by the Government in support of the warrant application. However, in its response to defendant's motion, the Government argues that its warrant contained no such claim, therefore it could not have been misleading. Accordingly, the defendant needs to address this response in the context of its motion to challenge the warrant.

Additionally, in response to the defendant's motion to dismiss Counts 11-233 of the indictment the government claims that notations at the bottom of the copies of the images printed from the defendants computer establish the date that the images were downloaded on to the computer (thus establishing date of receipt). The defendant would like the opportunity to have his computer expert Mr. DeCicco, examine these notations to determine the validity of the Government's claim in this regard.

The defendant will not be able to provide such reply within 11 days of the return date of the motion as it only received the Governments response 10 days before the return date.

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Therefore, the defendant respectfully requests permission to file and serve its reply on Tuesday, January 24, 2006.

Respectfully Submitted,

“s/Thomas A. Saitta  
Federal Bar Roll # 102510

cc: Miroslav Lovric, Esq.